

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 21

SAN DIEGO HOSPITAL ASSOCIATION
d/b/a SHARP HEALTHCARE

Employer

and

Case 21-UC-396

SHARP PROFESSIONAL NURSES NETWORK,
UNITED NURSES ASSOCIATIONS OF
CALIFORNIA, NUHHCE, AFSCME, AFL-CIO

Petitioner

SUPPLEMENTAL DECISION
AND
CLARIFICATION OF BARGAINING UNIT

On August 25, 1998, the Sharp Professional Nurses Network, United Nurses Associations of California, HUUHCE, AFSCME, AFL-CIO, herein called the Petitioner, filed with the undersigned, a petition seeking to clarify the contractually-recognized collective-bargaining unit ("the Unit").

A formal hearing, commencing September 22, 1998 and concluding on September 28, 1998, was conducted in this matter. On November 16, 1998, the undersigned issued a Decision and Clarification of Bargaining Unit.

On December 10, 1998, San Diego Hospital Association, d/b/a Sharp HealthCare, herein called the Employer, filed with the National Labor Relations Board, herein called the Board, a Request for Review of the Regional Director's Decision, contending inter alia, that senior quality assessment analysts should be found to be supervisors as defined in the Act and that they should be excluded from the Unit.

On December 8, 1999, the Board issued its Decision on Review and Order Remanding, remanding the case to the Regional Director for further consideration, and/or the reopening of the record, so as to resolve the issue of the supervisory status of senior quality assessment analysts.

By letter to the Regional Director dated December 21, 1999, the Petitioner withdrew any claim that the senior quality assessment analysts be included within the Unit. Moreover, on January 14, 2000, the Petitioner executed a written Stipulation to the effect that all senior quality assessment analysts possess and exercise supervisory authority as defined in Section 2(11) of the Act, and that they should therefore be excluded from the Unit in this matter. The Employer has declined to enter into the same stipulation.

On January 28, 2000, the Region issued a Notice to Show Cause why the hearing should not be reopened in this matter with regard to the supervisory status of senior quality assessment analysts or, in the alternative, why the Region should not conclude, based upon the record and the parties' stated positions noted above, that the senior quality assessment analysts are supervisors within the meaning of the Act and should be excluded from the Unit. On February 17, 2000, the Employer submitted its Response to the Notice to Show Cause; the Union made no submission.

As noted in the Region's initial Decision and Clarification of Bargaining Unit, it is not necessary that an individual possess all of the authority enumerated in Section 2(11) of the Act to be found a supervisor. The Board has long held that an individual who jointly makes hiring or other decisions along with a member of higher management through a "collaborative effort" is a supervisor pursuant to

Section 2(11) of the Act. Harbor City Volunteer Ambulance Squad, 318 NLRB 764 (1995); Detroit College of Business, 296 NLRB 318 (1989).

Herein, upon reconsideration, the record reveals that senior quality assessment analysts make joint determinations with the quality manager¹ regarding hiring,

discipline, and evaluations. Senior quality assessment analysts interview job applicants with the quality manager, and the decision to hire an employee is a joint decision made between the manager and the senior quality assessment analyst. Senior quality assessment analysts also make disciplinary determinations and prepare evaluations for employees. In addition, senior quality assessment analysts direct the work of employees under their supervision and, along with the quality manager, determine which employees should be assigned to particular peer review committees. When the quality manager is absent from the department, senior quality assessment analysts assume the role of the manager.

In light of the parties' positions noted above and the record as a whole, and upon further consideration, it is concluded that further clarification of the bargaining unit is warranted, and I shall grant the petition in this regard.

SUPPLEMENTAL ORDER

IT IS HEREBY ORDERED that the petition to clarify the Unit so as to determine the status of the senior quality assessment analysts be, and hereby is, further granted to the extent that it is concluded that the senior quality assessment analysts are supervisors within the meaning of the Act, and as such, they should be excluded from the Unit.

¹ It is undisputed that quality managers are supervisors as defined in the Act.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Supplemental Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by 5 p.m., EST, on March 16, 2000.

DATED at Los Angeles, California, this 2nd day of March, 2000.

/S/Victoria E. Aguayo
Victoria E. Aguayo
Regional Director, Region 21
National Labor Relations Board

385-7533-2000